
RECENT BOOKS ABOUT LEGISLATION AND PUBLIC POLICY

THE AMERICAN LEGISLATIVE PROCESS:

Congress and the States

By William J. Keefe and Morris S. Ogul

Fourth Edition

Prentice-Hall, Inc., Englewood Cliffs, N.J., 1977. Pp. 497. \$12.95.

For anyone seeking a comprehensive grasp of the legislative process in the United States today, this book is valuable. Written from a political science perspective, the authors analyze law-making in terms of structure, function and, in particular, the relationship with, and interaction between, legislatures and political parties, interest groups, bureaucracies, judiciaries and executive branches.

Since the authors do not limit their inquiry to the federal level, a dimension not often found in most books dealing with the legislative process is added.

Professors Keefe and Ogul, who teach at the University of Pittsburgh, frequently trace facets of the present American legislative process back to England and the British Parliament. These historical explanations are more than mere asides; they help broaden the reader's insight into the current American legislative process.

In terms of the authors' philosophy about American legislatures, they agree with Robert A. Dahl's view that, in preserving the present system, the people retain a "relatively efficient system for reinforcing agreement, encouraging moderation, and maintaining social peace in a restless and immoderate people operating a gigantic, powerful, diversified and incredibly complex society." As the principal alternative to this, the authors say, the American people could choose to reinvigorate the party system to institutionalize majority rule. This would integrate legislative and executive purposes and consolidate power now diffused. This alternative "promises a government with the capacity to act steadily and responsibly, one better able to meet unremitting crisis."

The authors conclude, however, that change to this extent would be unlikely, given the public's lack of interest in the legislative system, its instinct for preservation of established institutions, its aversion to the claims of party, and the inability of majorities to assert themselves in the election process. Thus, change in American legislatures will be incremental, resulting from measured responses to specific points of pressure exerted on the legislatures by the groups which interact with them.

The necessity for lawyers, legislators and students of government to comprehend this dynamic process is apparent. We all have parts, however small, in what Woodrow Wilson called "the dance of legislation." Keefe and Ogul have provided us with an excellent means to move toward this understanding.

— Chadwick C. Busk

**THE TRENTON PICKLE ORDINANCE
AND OTHER BONEHEAD LEGISLATION**

By Dick Hyman

The Stephen Greene Press, Brattleboro, Vermont, 1976. Pp. xvi, 116. \$4.95.

Mr. Hyman—who is billed by his publisher as the pre-eminent, or perhaps sole, authority in this field—has assembled into this rather brief volume some 600 curious laws which are the product of more than 40 years of research for his column, "It's the Law." The collection includes examples of drafting blunders which give a ridiculous effect to the law, such as the Belvedere, California, City Council order which reads: "No dog shall be in a public place without its master on a leash;" and the Texas enactment which provides that when two trains meet at a railroad crossing, each shall come to a full stop, and neither shall proceed until the other has gone. Other legislation compiled here is most amusing because of the very conduct sought to be prohibited. Examples of these oddities are the Marshalltown, Iowa ordinance which forbids horses from eating fire hydrants, and the title ordinance, which states that it is unlawful to throw tainted pickles in the streets of that New Jersey city.

For the most part, however, the "bonehead legislation" offered by Mr. Hyman takes on a ridiculous aspect only when read in light of the statement which premises his writing:

"Many of the laws collected here go back to the horse-and-buggy era but never have been rescinded, in spite of their all-too-obvious obsolescence. Although a few of the laws have by now been cancelled out by their states, most remain on the books." (Author's note, p. xvi.)

Thus he includes regulations such as the Emporia, Kansas ordinance requiring that a car be preceded through the city by a person on foot so that people can be warned to get their horses off the street. Regulations and ordinances such as this one seem funny only if the context in which they were enacted is disregarded and these laws are instead considered to be viable proscriptions to this day. While Mr. Hyman's intention obviously is only to present a lighthearted commentary on the wisdom behind the pronouncements of our various legislative bodies, and therefore is not to be held to a standard of review attendant to a scholarly work, one nonetheless feels the need to point out that his statement in this regard is at best misleading.

As authoritatively outlined in Sutherland's work on statutory construction, the legislatures cannot be credited with the compendious knowledge of detail contained in the great mass of statutory law in effect in a state. They also lack the time to carry out the extensive research into the accretions of myriads of statutory provisions, in order always to be able to specify which previous statutes should be repealed in enacting new laws. Accordingly, the judicial doctrine of implied repeal recognizes that in the course of enacting legislation to meet the changing demands of society it is only natural that subsequent enactments should be declaratory of the intent to repeal preexisting laws without mention or reference to such prior laws. A repeal, therefore, may arise by necessary implication from the enactment of a subsequent act.¹ Many laws, therefore, may con-

1. See Sands, 1A Sutherland Statutory Construction, sec. 23,09 (4th ed. 1972).

ceivably remain on the pages of statutory volumes while their actual effect has since been superseded by more recent legislation.

Upon a careful reading of this text, therefore, one is compelled to the conclusion that Mr. Hyman is considerably more skilled in the art of journalistic humor than in the subtle technicalities of statutory analysis. This in and of itself should assure the reader of a delightful passage through its pages.

—James A. Masters

SOCIAL LEGISLATION

Labor Relations and Social Problems, Unit Two Second Edition

By Robert N. Covington

The Bureau of National Affairs, Inc., Washington, D.C., 1974. Pp. x, 218.

This textbook is part of a series of publications by The Labor Law Group. The forward to this particular text lists nine characteristics which distinguish Labor Law Group publications from standard labor law casebooks. All nine of these traits are laudatory and would be a welcomed addition to the study of labor law. Unfortunately, none of these distinguishing features are present in this particular text.

The text contains a brief introduction in which the author suggests the importance of understanding labor law legislation within the context of its social development. This is a valid concern and I wholeheartedly agree with Professor Covington's thesis that labor law legislation is one element of the broader field of economic and social interaction.

The format utilized in the text is a survey of several federal statutes regulating wages and hours of work, O.S.H.A. and workmen's compensation programs, unemployment compensation and some social security benefits.

While the organization of the text would provide a workable outline for approaching these areas of labor law, the content of the text does little to familiarize the reader with the substantive operation of any of these areas. Rather than painting a broad picture of the major provisions of these statutes and then progressing to a more detailed discussion of problem areas, the text merely cites a general statute or area and then offers a couple of cases dealing with specific and detailed problems arising from the operation of the statute.

The only overviews provided in the book are short notes following some of the cases. Many of the cases in the text would be difficult to appreciate without a preexisting substantive law background in this area.

--Terry A. Crone